

SENATE BILL No. 284

By Committee on Financial Institutions and Insurance

1-16

Proposed amendment to SB 284
House Financial Institutions and Pensions Committee
March 7, 2018
Prepared by David Wiese, Office of Revisor of Statutes

1 AN ACT concerning financial institutions; updating the Kansas money
2 transmitter act; amending K.S.A. 2017 Supp. 9-512 and 9-513 and
3 repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 9-512 is hereby amended to read as
7 follows: 9-512. (a) The commissioner, after notice and an opportunity for
8 hearing, may issue an order to address any violation of this act *or rules*
9 *and regulations adopted pursuant thereto:*

10 (1) Assessing a fine against any person who violates this act, or rules
11 and regulations adopted thereto, in an amount not to exceed \$5,000 per
12 violation;

13 (2) assessing the agency's operating costs and expenses for
14 investigating and enforcing this act;

15 (3) requiring the person to pay restitution for any loss arising from
16 the violation or requiring the person to disgorge any profits arising from
17 the violation;

18 (4) barring the person from future application for licensure pursuant
19 to the act; and

20 (5) requiring such affirmative action as in the judgment of the
21 commissioner which will carry out the purposes of this act.

22 (b) The commissioner may enter into a consent order at any time with
23 a person to resolve a matter arising under this act, rules and regulations
24 adopted thereto, or an order issued pursuant to this act.

25 (c) *The commissioner may enter into an informal agreement at any*
26 *time with a person to resolve a matter arising under this act, rules and*
27 *regulations adopted pursuant thereto, or an order issued pursuant to this*
28 *act. ~~The adoption of an informal agreement authorized by this subsection~~*
29 *~~shall not be subject to the provisions of K.S.A. 77-501 et seq., and~~*
30 *~~amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto.~~*
31 *~~Any informal agreement authorized by this subsection shall not be~~*
32 *~~considered an order or other agency action, and shall be considered~~*
33 *~~confidential examination material pursuant to K.S.A. 9-2217 9-513c, and~~*
34 *~~amendments thereto. All such examination material shall also be~~*
35 *~~confidential by law and privileged, shall not be subject to the open records~~*
36 *~~act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to~~*

In line 28, by striking all after the period; by
striking all in lines 29 through 36

1 ~~subpoena and shall not be subject to discovery or admissible in evidence~~
2 ~~in any private civil action. The provisions of this subsection shall expire~~
3 ~~on July 1, 2023, unless the legislature reviews and reenacts this provision~~
4 ~~pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023;]~~

By striking all in lines 1 through 4

5 (e) (d) Any person who knowingly violates any provision of this act
6 shall be guilty of a severity level 9, nonperson felony. Each transaction in
7 violation of this act and each day that a violation continues shall be a
8 separate offense. Whenever a corporation violates any provision of this
9 act, such violation shall be attributed to individual directors, officers and
10 agents who have authorized, ordered or performed any of the acts
11 constituting such violation.

12 (e) (e) A corporation and its directors, officers and agents may each
13 be prosecuted separately for violations of this act and the acquittal or
14 conviction of one such director, officer or agent shall not abate the
15 prosecution of the others.

16 (e) (f) Whenever it appears that a person has violated, or is likely to
17 violate, this act, rules and regulations adopted thereunder, or an order
18 issued pursuant to this act, then the commissioner may bring an action for
19 injunctive relief to enjoin the violation or enforce compliance, regardless
20 of whether or not criminal proceedings have been instituted. Any person
21 who engages in activities that are regulated and require a license under this
22 act shall be considered to have consented to the jurisdiction of the courts
23 of this state for all actions arising under this act.

24 Sec. 2. K.S.A. 2017 Supp. 9-513 is hereby amended to read as
25 follows: 9-513. The commissioner ~~and the commissioner's designees~~ shall
26 ~~rely on the deputy commissioner of the banking division established~~
27 ~~pursuant to K.S.A. 75-3135, and amendments thereto, and such deputy's~~
28 ~~staff to~~ administer, interpret and enforce this act for the purpose of
29 protecting the citizens of this state, against financial loss, who purchase
30 payment instruments or who give money or control of their funds or credit
31 into the custody of another person for transmission, regardless of whether
32 the transmitter has any office, facility, agent or other physical presence in
33 the state.

34 Sec. 3. K.S.A. 2017 Supp. 9-512 and 9-513 are hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its
36 publication in the statute book.